

### REMARKS

This Response is submitted in reply to the Final Office Action dated October 23, 2008. Claims 1 to 12, 14 to 22, 24, and 31 to 39 have been amended for clarity. No new matter has been added by such amendments. Claims 25 to 30 and 41 to 43 stand withdrawn. A Request For Continued Examination is submitted herewith. Please charge deposit account number 02-1818 for any fees determined to be necessary in association with the RCE and this Response.

The October 23, 2008, Final Office Action is a first Office Action following the filing of the September 25, 2008, Request for Continued Examination. The Office Action acknowledged receipt of the amendment/arguments filed on September 25, 2008, and noted that the arguments set forth were addressed in this Office Action. Regardless, the Office Action merely stated that:

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Applicant notes that the Office Action did not include form paragraph ¶ 7.42.09, as indicated by MPEP §706.07(b).

Applicant respectfully submits that the instant Office Action did not satisfy the requirements of MPEP §706.07(b), and thus should not be a final, first action following a Request for Continued Examination. Thus, Applicant respectfully requests that the instant Office Action be determined to be an improper Final Office Action, that the Office Action be converted to a non-final Office Action, and that Applicant not be charged the fee associated with the Request for Continued Examination submitted herewith.

The Office Action stated that the specification fails to clearly define what a clue is considered to be, and that there are only examples in regards to what a clue is within the specification.

Applicant submits that the specification is not required to define the terms used in the claims, and that in absence of such definition the claim terms will be given their plain and ordinary meaning as understood by one of skill in the art. The term "clue," as used

in the claims, is understandable to one of ordinary skill in the art, and thus need not be further defined or clarified by the specification.

Though it is unnecessary, the specification provides numerous examples of what is meant by the term “clue,” including at least the examples of clues given at numeral 88 of Figures 3 to 13. In further examples, the specification notes that “[t]he game show presents a clue to the player and displays a plurality of selections that each relate to the clue,” (¶9, ll. 2 – 4), “the game provides clues to the player and the player picks a selection from a plurality of selections based on the clues...certain selections hav[e] indicia that relate more closely to a given clue than other selections,” (¶63, ll. 2 – 6), “[t]he selection 90 that displays the ‘grape’ indicia are logically more closely related to the clue of ‘small, purple’ than are the hats selection 92 and the monsters selection 94,” (¶69, ll. 2 – 6), “[e]ach of the selections relates to or provides an answer for the clue 112,” (¶74, ll. 2-3). Applicant submits that one of ordinary skill in the art would understand that the passages cited above are merely examples of what the term “clue” could mean, and would further understand the term “clue” as it is used within the specification and claims. It should be appreciated that the figures and passages cited above are examples, and do not in any way limit the definition of the term “clue.”

The Office Action rejected claims 1, 3 to 15, 17 to 24, and 31 to 40 under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 7,273,415 to Cregan et al. (“Cregan”) in view of U.S. Patent No. 6,511,375 to Kaminkow (“Kaminkow”). Applicant respectfully disagrees and traverses this rejection for at least the following reasons.

Cregan discloses a gaming device having a bonus round with multiple selection groups. Each selection group contains a plurality of selections that remain masked until chosen (col. 5, ll. 33-37). The bonus round begins in the bottom selection group and advances upwardly, ending when the player chooses a predetermined number of selections from the last or final selection group (col. 2, ll. 31-34).

Kaminkow discloses a gaming device bonus round that contains a plurality of groups each having a plurality of elections that the player can pick and receive an award (abstract). The game directs the player through the bonus round and designates

the group from which the player is currently enabled to pick, without indicating which item in the group to select (col. 2, ll. 52-54). The game informs the player until the player picks from each group in the screen until no more picks exist (col. 2, ll. 64-67). Kaminkow further discloses that all of the selection groups of the game may be focused on a particular theme, such as ordering a take-out meal for the entire family (col. 11, ll. 7-10). As illustrated in Fig. 7, the selection groups may each contain a plurality of images indicating dishes at a restaurant. The game directs a player to choose a number of dishes from each of the selection groups, without indicating which dishes to choose (col. 11, ll. 33-40). For example, the game may direct the player to choose two appetizers from the appetizer group (col. 11, ll. 27-29).

Amended independent claim 1 includes, among other elements, at least one processor configured to operate with at least one display device and at least one input device to, for each of a plurality of plays of a game: select one of a plurality of different levels, each of the plurality of different levels including a clue associated with that level and a plurality of responses to that clue, wherein the clue indicates at least two but less than all of the plurality of responses which are preferred responses, randomly select one of the at least two preferred responses to be a designated preferred response, wherein for a first of the plurality of plays of the game, a first one of the at least two preferred responses is the designated preferred response to a designated clue, and wherein for a second of the plurality of plays of the game, a different second one of the at least two preferred responses is the designated preferred response to the same designated clue, randomly associate each of a plurality of masked selections with one of the responses to the clue, wherein the masked selection associated with the designated preferred response includes a pay outcome, display the clue, the plurality of masked selections, and the plurality of associated responses of the selected one of the plurality of different levels.

The Office Action stated that Cregan fails to disclose displaying for each level a clue associated with the level and a plurality of masked selections, wherein each masked selection is associated with one of a plurality of responses to the clue. The Office Action also stated that Kaminkow discloses a game comprising a plurality of

selection groups wherein each selection group is associated with a theme comprising a plurality of groups, wherein the groups are defined by food categories such as appetizers. The Office Action further stated that the groups are interpreted as a plurality of different levels respective of each group, such that if the player is advised to pick an appetizer, the player must pick selections comprising appetizers, wherein the selections masked with appetizers are the responses to the clue. The Office Action interpreted the audio command to the player to select a dish type (such as an appetizer), provided by Kaminkow, to be the clue of claim 1. The Office Action further interpreted the plurality of groups of food dishes (e.g., appetizers) to be of the plurality of levels of claim 1.

Applicant submits that the Office Action's interpretation is incorrect, and that Kaminkow does not remedy the noted deficiencies of Cregan with respect to amended independent claim 1. Specifically, the audio command of Kaminkow, (which the Office Action interpreted to be the clue), indicates to the player which group of food dishes to select from – that is, the audio command of Kaminkow indicates which level the player should select from the plurality of levels. Within the individual level, Kaminkow discloses that the player is free to pick any of the dishes displayed (e.g., the player may select any of the plurality of appetizers). Kaminkow does not disclose any indication of a preferred dish within any individual level.

On the other hand, amended independent claim 1 includes, among other elements, a plurality of different levels, each of the plurality of different levels including a clue associated with that level and a plurality of responses to that clue, wherein the clue indicates at least two but less than all of the plurality of responses which are preferred responses. First, the audio command of Kaminkow, which indicates a level to pick, does not appear to be the clue of amended independent claim 1. Rather, Kaminkow appears to prevent players from selecting dishes from groups of dishes which are not the group of dishes indicated by the audio command. Moreover, while Kaminkow may indicate which of the levels (i.e., groups of dishes) for the player to select from, Kaminkow does not indicate at least two but less than all of the plurality of responses of a level which are preferred responses (i.e., Kaminkow does not indicate at least two but less than all of the appetizers which are preferred appetizers). That is, Kaminkow

indicates, if anything, that selecting any of the dishes from a given level is an appropriate selection for that level. Thus, to the extent that Kaminkow indicates more than one of the dishes of a given level which the player should select, Kaminkow indicates that all of the dishes of that level are appropriate selections.

Moreover, neither Cregan or Kaminkow alone, nor the combination of Cregan and Kaminkow, discloses a gaming device including at least one processor configured, for each of a plurality of plays of a game, to randomly select one of the at least two preferred responses to be a designated preferred response, wherein for a first of the plurality of plays of the game, a first one of the at least two preferred responses is the designated preferred response to a designated clue, and wherein for a second of the plurality of plays of the game, a different second one of the at least two preferred responses is the designated preferred response to the same designated clue, and randomly associate each of a plurality of masked selections with one of the responses to the clue, wherein the masked selection associated with the designated preferred response includes a pay outcome. As discussed above, Cregan in view of Kaminkow does not disclose or render obvious the clue which indicates at least two but less than all of the plurality of responses which are preferred responses. Therefore, unlike amended independent claim 1, Cregan in view of Kaminkow also does not disclose or render obvious that for different plays of the game, different ones of the at least two (but less than all) of the responses which are preferred responses are designated preferred responses associated with a pay outcome.

For at least the reasons given above, Applicant respectfully submits that Kaminkow does not remedy the deficiencies of Cregan with respect to amended independent claim 1. Applicant further submits that amended independent claim 1 is patentably distinguished over Cregan in view of Kaminkow and is in condition for allowance.

The Office Action stated that U.S. Patent No. 6,863,606 to Berg et al. ("Berg") teaches a gaming device with clues an award selection. Applicant respectfully submits that unlike amended independent claim 1, Berg does not include at least one processor

configured, for each of a plurality of plays of a game, to randomly select one of the at least two preferred responses to be a designated preferred response, wherein for a first of the plurality of plays of the game, a first one of the at least two preferred responses is the designated preferred response to a designated clue, and wherein for a second of the plurality of plays of the game, a different second one of the at least two preferred responses is the designated preferred response to the same designated clue, and randomly associate each of a plurality of masked selections with one of the responses to the clue, wherein the masked selection associated with the designated preferred response includes a pay outcome. Specifically, any awards of Berg are associated with a same correct answer (e.g., a same survey response to a clue in a Family Feud game or a same answer to a trivia question of a trivia game) for each of a plurality of plays of the game. Thus, for two plays of the game of Berg, Berg will not designate two different designated preferred responses to the same designated clue. Applicant submits that amended independent claim 1 is patentably distinguished over Berg and is in condition for allowance.

Dependent claims 3 to 14, which depend directly or indirectly from independent claim 1, are also allowable for the reasons given above with respect to independent claim 1, and because of the additional features recited in these claims.

Amended independent claims 15 and 31 (and dependent claims 17 to 24 and 32 to 40, which depend directly or indirectly from independent claims 15 and 31) each include certain similar elements to amended independent claim 1. For reasons similar to those given above with respect to claim 1, Applicant respectfully submits that amended independent claims 15 and 31 (and dependent claims 17 to 24 and 32 to 40) are patentably distinguished over Cregan in view of Kaminkow and are in condition for allowance.

The Office Action also rejected dependent claims 2 and 16 under 35 U.S.C. §103(a) as being unpatentable over Cregan in view of Kaminkow and further in view of U.S. Publication No. 2003/0045349 to Hughs-Baird ("Hughs-Baird"). Applicant respectfully disagrees and traverses this rejection for at least the following reasons.

Hughs-Baird discloses a gaming device including a plurality of selections, a plurality of credit symbols associated with the selections, a plurality of awards symbols associated with the selections, and a winning combination of award symbols (abstract). The game of Hughs-Baird conceals or masks which symbol is associated with each selection (§6, ll. 2-5). Hughs-Baird does not appear to disclose any clue, hint, or suggestion associated with the game for indicating one or more preferred selections of the plurality of masked selections.

The Office Action stated that Cregan in view of Kaminkow fails to disclose a “stay” type pick that enables a player to pick another pick from the same level without a count against the pick counter. The Office Action relied on Hughs-Baird to remedy such deficiency, stating that Hughs-Baird discloses a “pick again” pick.

Claim 2, which depends directly from amended independent claim 1, includes, among other elements, at least one processor configured to operate with at least one display device and at least one input device to, for each of a plurality of plays of a game: select one of a plurality of different levels, each of the plurality of different levels including a clue associated with that level and a plurality of responses to that clue, wherein the clue indicates at least two but less than all of the plurality of responses which are preferred responses, randomly select one of the at least two preferred responses to be a designated preferred response, wherein for a first of the plurality of plays of the game, a first one of the at least two preferred responses is the designated preferred response to a designated clue, and wherein for a second of the plurality of plays of the game, a different second one of the at least two preferred responses is the designated preferred response to the same designated clue, randomly associate each of a plurality of masked selections with one of the responses to the clue, wherein the masked selection associated with the designated preferred response includes a pay outcome, display the clue, the plurality of masked selections, and the plurality of responses of the selected one of the plurality of different levels.

Applicant submits Hughs-Baird does not remedy the deficiencies of Cregan in view of Kaminkow discussed above. Specifically, Hughs-Baird discloses masking or concealing the symbol associated with each selection, so as not to indicate which

selections are associated with which symbols. Thus, regardless of whether Hughs-Baird discloses a "pick again" pick, as stated by the Office Action, neither Cregan, Kaminkow, or Hughs-Baird alone, nor the combination of Cregan, Kaminkow, and Hughs-Baird, discloses a gaming device including at least one processor configured, for each of a plurality of plays of a game, to randomly select one of the at least two preferred responses to be a designated preferred response, wherein for a first of the plurality of plays of the game, a first one of the at least two preferred responses is the designated preferred response to a designated clue, and wherein for a second of the plurality of plays of the game, a different second one of the at least two preferred responses is the designated preferred response to the same designated clue, and randomly associate each of a plurality of masked selections with one of the responses to the clue, wherein the masked selection associated with the designated preferred response includes a pay outcome. Moreover, it would not have been obvious to one of ordinary skill in the art to modify the gaming device resulting from the combination of Cregan, Kaminkow, and Hughs-Baird to disclose such a gaming device without being construed as improper hindsight reconstruction. Specifically, Hughs-Baird discloses that each of the selections is masked, and therefore teaches away from any modification which indicates at least two but less than all of the selections to be preferred selections. For at least these reasons, Applicant submits that claim 2 is patentably distinguished over Cregan in view of Kaminkow and further in view of Hughs-Baird and is in condition for allowance.

Claim 16, which depends directly from claim 15, includes certain similar elements to claim 2 with respect to levels, clues, and preferred responses to clues. For reasons similar to those given above with respect to claim 2, Applicant submits that claim 16 is patentably distinguished over Cregan in view of Kaminkow and further in view of Hughs-Baird, and is in condition for allowance.

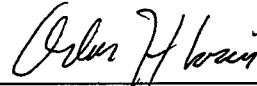


An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicant respectfully requests that the Examiner contact the undersigned.

Respectfully submitted,

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